

United States District Court

EASTERN DISTRICT OF WISCONSIN

JUDGMENT IN A CIVIL CASE

DARRIN L. FERGUSON,

Plaintiff,

V.

CASE NUMBER: **04-C-181**

MEDICAL COLLEGE OF WISCONSIN,

Defendant.

- ☐ **Jury Verdict.** This action came before the Court for a trial by jury. The issues have been tried and the jury has rendered its verdict.
- ☒ **Decision by Court.** This action came on for consideration and a decision has been rendered.

IT IS ORDERED AND ADJUDGED that the defendant's motion for summary judgment dismissing the plaintiff's claims pursuant to Title VII of the Civil Rights Act of 1964 and 42 U.S.C. § 1981, that his employment was terminated based on his race and that he was subjected to harassment based on his race, is **GRANTED**.

The plaintiff has not established a *prima facie* case that he was performing in accordance with the defendant's legitimate job expectations. The plaintiff has also not presented evidence indicating that the defendant treated similarly situated individuals who were not in the protected class differently. Even if the plaintiff could establish a *prima facie* case, his claims of discriminatory termination fail because the defendant has presented non-discriminatory reasons for plaintiff's firing, and the plaintiff has not presented evidence indicating that such reasons were a pretext for discrimination.

The plaintiff's Title VII racial harassment claim is dismissed as untimely.

The plaintiff's racial hostile work environment claim under § 1981 is dismissed because the plaintiff lacks the necessary proof of his § 1981 claim. The evidence does not provide a basis upon which a reasonable jury could conclude that the work environment was objectively offensive, that the harassment was based on the plaintiff's membership in a protected class, or that the conduct was severe or pervasive.

The plaintiff's federal retaliation claim, his state law defamation claim and invasion of privacy claims and any state negligence claim are dismissed based upon his concession that such claims are subject to dismissal.

This action is hereby DISMISSED.

January 11, 2007
Date

Clerk

s/ Linda M. Zik
(By) Deputy Clerk